

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 079066

67

ORIGIN EB-11

INFO OCT-01 EUR-25 ISO-00 IO-14 L-03 CAB-09 CIAE-00

COME-00 DODE-00 DOTE-00 INR-10 NSAE-00 RSC-01 FAA-00

SS-20 NSC-07 PA-04 PRS-01 USIA-15 OIC-04 AF-10 ARA-16

EA-11 NEA-10 /172 R

DRAFTED BY EB/OA - MR. MEADOWS:CLARA

APPROVED BY IO - DR. MOREY

IO/TRC - MR. GRIP

L/EB MR. GAITHER

----- 110953

P 182001Z APR 74

FM SECSTATE WASHDC

TO AMCONSUL MONTREAL PRIORITY

LIMITED OFFICIAL USE STATE 079066

E.O.: 11652 N/A

TAGS: ETRN, CA, ICAO

SUBJECT: LEGAL OPINION ON SENEGAL PROPOSAL

REF: MONTREAL 0527

FOR US REPRESENTATIVE ICAO

1. US STRATEGY FROM BEGINNING HAS BEEN BASED ON EXPECTATION THAT THE DIALLO OR SIMILAR PROPOSAL, IF DEFEATED IN COUNCIL, WOULD RESURFACE IN ASSEMBLY. POWER OF LDC BLOC TO PREVENT CIRCULATION IN ASSEMBLY THROUGH PROCEDURAL VOTE IS MUCH GREATER THAN IN COUNCIL. FOR THIS REASON WE PUSHED TO OBTAIN CIRCULATION IN COUNCIL. ACHIEVEMENT OF THIS OBJECTIVE FRUSTRATED BY DELAYS WHICH HAVE ENSUED SINCE SECRETARY GENERAL UNDERTOOK IN COUNCIL TO CIRCULATE OPINION, WHICH IN TURN PRECIPITATED SITUATION IN WHICH THERE IS NO PRESENT PROSPECT OF HAVING OPINION CIRCULATED IN COUNCIL. WE FEEL OUR OBJECTIVE NOW MUST BE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 079066

TO OBTAIN FROM COUNCIL PRESIDENT AND SECRETARY GENERAL CLEAR

AND COMPREHENSIVE ASSURANCE THAT IF SIMILAR SITUATION ARISES
IN ASSEMBLY SUCH LEGAL OPINION WILL BE FORTHCOMING.

2. TO PERMIT TOPIC TO BE TREATED IN MOST OBJECTIVE AND
INFORMED WAY POSSIBLE IN ANY DISCUSSIONS DURING BINAGHI
VISIT APRIL 23 - 24, REQUEST US REPRESENTATIVE ASCERTAIN
FROM COUNCIL PRESIDENT AND SECRETARY GENERAL (A) WHETHER
LEGAL OPINION WOULD BE ISSUED IN ASSEMBLY (ASSUMING

SENEGALESE OR SIMILAR PROPOSAL MADE) IF PROCEDURAL MOTION
WERE INTRODUCED TO PUT QUESTION OF CIRCULATING LEGAL OPINION
TO VOTE. (B) WOULD COUNCIL PRESIDENT AND SECRETARY
GENERAL REGARD REQUEST FOR LEGAL OPINION AS BEING SUBJECT
PROCEDURALLY TO MAJORITY DECISION? (C) IF NOT, HOW WOULD
COUNCIL PRESIDENT OR SECRETARY GENERAL ACT TO AVOID THIS?
(D) IF SO, WHAT WEIGHT CAN WE ATTACH TO ASSURANCES REPORTED
IN REFTTEL?

3. FYI. IN THIS CONNECTION WE DO NOT AGREE THAT ISSUANCE
OF LEGAL OPINION ON SOUTH AFRICA AND PORTUGAL CONSTITUTE
PRECEDENT WE CAN RELY ON AS POLITICAL SITUATION WOULD BE
REVERSED. LEGAL OPINION WE WOULD SEEK WOULD LIKELY BE
CONTRARY TO POLITICAL WISHES OF MAJORITY OF ASSEMBLY AND,
AS NOTED, POTENTIALLY SUBJECT TO PROCEDURAL TACTICS TO
BLOCK ITS ISSUANCE, WHEREAS OPINIONS ON SOUTH AFRICA AND
PORTUGAL (NOT AGREED TO BY US ON LEGAL GROUNDS) WERE
ISSUED WHEN POLITICAL DESIRES OF MAJORITY CLEARLY FAVORED
THE RESOLUTIONS THOSE OPINIONS SOUGHT TO LEGITIMIZE. THUS
REGARDLESS OF PRESENT SECRETARIAT INTENTIONS OR ASSURANCES,
IT MAY BE PROCEDURALLY IMPOSSIBLE FOR OPINION TO BE ISSUED
OR CIRCULATED. AS PRACTICAL MATTER, MOREOVER, WE ARE CON-
CERNED TOO THAT, WHEN CHIPS ARE DOWN, SECRETARIAT MIGHT FEEL
MUCH LESS INCLINED TO ISSUE OPINION IF DISCUSSION HAD
DEMONSTRATED IT WOULD RUN CONTRARY TO DECISION ASSEMBLY
MAJORITY DETERMINED TO TAKE IN ANY CASE. END FYI. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, INTERNATIONAL LAW, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 18 APR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE079066
Document Source: CORE
Document Unique ID: 00
Drafter: MR. MEADOWS:CLARA
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740090-0965
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740432/aaaabcie.tel
Line Count: 96
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: MONTREAL 0527
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 15 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 APR 2002 by ifshinsr>; APPROVED <07-Aug-2002 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LEGAL OPINION ON SENEGAL PROPOSAL
TAGS: ETRN, CA, ICAO
To: MONTREAL
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005